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## DOCUMENTS

### *Papers of William Paterson on the Federal Convention, 1787*

WILLIAM PATERSON is generally remembered as one of the leaders of the Small State party in the Federal Convention, and chiefly as the delegate who introduced and defended the New Jersey plan. In addition to his work in the Convention, he played an active part in national and state affairs.

He was born in Ireland in 1745. His parents came to Philadelphia two years later, and in 1750 settled in Princeton. He graduated from Princeton College in the class of 1763, and from 1787 to 1802 was a member of the board of trustees. It is an interesting fact that in 1765, while studying law under Richard Stockton, a signer of the Declaration of Independence, Paterson was one of the founders of a patriotic society called the Well-Meaning Club. This was afterward reorganized as the Cliosophic Society. Enrolled among its members were Oliver Ellsworth and Luther Martin, two men who were later, like Paterson, strong advocates of the Small State policy at Philadelphia.<sup>1</sup> He was a member of the first Provincial Congress of New Jersey, 1775, a delegate to the Continental Congress, attorney-general of his state, and a member of the Annapolis Convention.

After his work in favor of the New Jersey plan was finished, Paterson took little part in the debates of the Federal Convention. On July 23 he seconded a motion of Ellsworth that the Constitution be referred to the legislatures of the states for ratification. There is no evidence of his participation in the Convention from that date to the time of signing the completed instrument.

In the organization of the new government, Paterson was chosen as a senator from New Jersey, but he soon resigned to become governor and chancellor of his state. During the three years of his governorship he began the important work of collecting and putting into proper form all those British statutes held to be in force before the Revolution that by the constitution of New Jersey were to have force and validity, together with all the public acts passed by the New Jersey legislature. This task, finished in 1800,

<sup>1</sup> W. Jay Mills, *Glimpses of Colonial Society and the Life at Princeton College 1766-1773* (Philadelphia, 1903), 17.

is said to have been done with marked skill and judgment.<sup>1</sup> On March 4, 1793, he was commissioned by Washington as associate justice of the Supreme Court of the United States, a position which he held till his death in 1806.

The following documents, unless otherwise noted, are at present in the Library of Congress, Division of Manuscripts. They have been recently secured from Mr. Noah F. Morrison, of Elizabeth, New Jersey. Those that are not in the Congressional Library are here printed from copies made by Professor J. F. Jameson of originals furnished him by Miss Emily K. Paterson, of Perth Amboy, New Jersey. Copies of everything that is here printed are to be found in the New York Public Library, Lenox branch, among the Bancroft manuscripts. On the Bancroft copies are headings prepared for Mr. Bancroft's use. These headings suggest what, in the writer's opinion, the papers refer to, and these indications have been of considerable service in the task of examining and arranging the notes for publication. In several instances the statements in the headings have not been followed in the arrangement of the papers as here printed. Such of the following papers as are now in the possession of the Library of Congress are called the Paterson Papers, and that designation is here retained as a heading to all of these documents. It should be noted, however, that two of these documents are in the handwriting of Brearley.

David Brearley (1745-1790), one of Paterson's colleagues in the Federal Convention, had been a lieutenant-colonel of the New Jersey line under General Sullivan. From 1779 till 1789 he was chief-justice of New Jersey, and from 1789 till his death judge of the United States District Court for that state. He signed the Constitution and was a member of the state convention that ratified it.<sup>2</sup>

Some of these notes will probably prove of little significance to the reader. In spite of this it has seemed well to publish them, because anything referring to the Federal Convention, and especially to the great central controversy, is of interest to students. Even though material of this kind may at first seem interesting rather than significant, it often happens that the special investigator will find in it meaning at first not appearing. It must be said, however, that many of these notes will probably prove valuable to the student of the Convention's work. They help to bring out with distinctness the character of the controversy between the advocates of the

<sup>1</sup> Hampton L. Carson, *The Supreme Court of the U. S.* (Philadelphia, 1892), 184; L. Q. C. Elmer, *The Constitution and Government of the Province and State of New Jersey* (Newark, 1872), 88-94.

<sup>2</sup> For a biography of Brearley see Elmer, 274.

Virginia and the New Jersey plans, and they certainly throw light on the character of Paterson's arguments.

The notes were not made in accordance with any definite system as were those of Madison. They are not so coherent and well-arranged as even those of Yates, King, or Pierce. In a few cases Paterson, following the speakers, made brief abstracts of their speeches in order to emphasize the thoughts that he considered most important. Other notes were prepared merely as memoranda for a reply to an opponent. In some cases there appear in the same memorandum to be references to speeches made on different days ; for example, the papers that seem to be notes for Paterson's speech of June 9 likewise include, apparently, mention of what Butler said on June 11. It is not impossible, therefore, that Paterson sketched out these thoughts for his speech, and, after he had spoken, inserted any remarks that had been made in opposition in order that he might make cogent reply. If this is not the case, and the explanation does not seem very satisfactory, then he simply jotted down thoughts for a speech, and for the purpose of argument inserted the statements of others as he remembered them. He worked over his argument at various times, and thrust into his outline the words of others on which he intended to comment.

#### I. NOTES OF THE VIRGINIA PLAN, MAY 29.<sup>1</sup>

Gov<sup>r</sup> Randolph —

Propositions founded upon republican Principles.

1. The Articles of the Conf<sup>an</sup> should be so enlarged and corrected as to answer the Purposes of the Inst<sup>a</sup>

2. That the Rights of Suffrage shall be ascertained by the Quantum of Property or Number of Souls — This the Basis upon which the larger States can assent to any Reform.

Obj<sup>n</sup> — Sovereignty is an integral Thing — We ought to be one Nation — <sup>2</sup>

3. That the national Leg<sup>r</sup> should consist of two Branches —

4. That the Members of the first Branch should be elected by the People, etc. This the democrattick Branch — Perhaps, if inconvenient, may be elected by the several Leg<sup>rs</sup> —

<sup>1</sup> Cf. *Documentary History of the Constitution*, III. 17-20. The original of this paper is in the possession of Miss Emily K. Paterson, of Perth Amboy, New Jersey. It is evidently a condensation, perhaps hastily made, of Randolph's plan presented to the convention May 29.

<sup>2</sup> The purport of this interpolated comment is not plain ; but it would seem to be the center of what Paterson afterward contended for, *viz.* the convention could not divide up the sovereignty of the states ; if there was to be one nation, the states must be thrown together.

5. Members of the 2<sup>d</sup> Branch to be elected out of the first — to continue for a certain Length of Time, etc. To be elected by Electors appointed for that Purpose —

6. The Powers to be vested in the national Leg<sup>r</sup> — A negative upon particular acts, etc. contravening the Articles of the Union — Force —

7. A national Executive to be elected by the national Leg<sup>r</sup>

Checks upon the Leg<sup>r</sup> and Ex. Powers —

1. A Council of Revision to be selected out of the ex. and jud<sup>r</sup> Departments, etc.<sup>1</sup>

2. A nat<sup>l</sup> Judiciary to be elected by the nat<sup>l</sup> Leg<sup>r</sup> — To consist of an inferior and superior Tribunal — To determine Piracies, Captures, Disputes between Foreigners and Citizens, and the Citizen of one State and that of another, Revenue-matters, national Officers —

1. Provision for future States —

2. A Guar<sup>y</sup> by the United States to each State of its Territory, etc.

3. Continuation of Congress till a given Day.

4. Provision, that the Articles of national Union should be amended —

5. That the leg. ex. and jud<sup>r</sup> Officers should be bound by Oath to observe the Union.

6. That Members be elected by the People of the several States to ratify the Articles of national Union —

## II. REPORT OF THE COMMITTEE OF THE WHOLE, JUNE 13.<sup>2</sup>

### Report of the Committee of the whole House

1. Resolved, that [*it is*] the [*opinion of this Committee* of the U. S.

*that a National*] Government <sup>^</sup> ought to [*be established*] consist [*ing*] of a Supreme Legislative, Judiciary, and Executive.

Agreed — 7 A. 3 No  
1 divided

2. Resolved, that the [*National*] Legislature ought to consist of two branches.

9 A 1 N 1 Divided.

3. Resolved, that the Members of the first Branch of the of the United States

[*(National)*] Legislature <sup>^</sup> ought to be elected by the People

<sup>1</sup> Beginning with this note the remaining eight resolutions of the fifteen are summed up, though not numbered as in the plan.

<sup>2</sup> This paper is in the handwriting of David Brearley. It is indorsed "Report of Committee 12 June 1787" in Brearley's handwriting. The committee, as a matter of fact, did not report until June 13. The interlineations and erasures as here represented admirably illustrate the subjects under discussion and the changes made in the report. Erasures are bracketed and in italics. Evidently Brearley, using the report of the Committee of the Whole, or more properly his copy of the report, made changes in it in the course of the succeeding debates.

5 A. 5 no. 1 divided  
lost

two to be of the Age of the several States, for the term of *three* years ; <sup>^</sup> [to receive of 25 years at least :

*fixed Stipends, by which they may be compensated for the devotion of their time to Public Service—to be paid out of the Public and incapable of holding, National Treasury ;*] to be ineligible to, <sup>^</sup> any Office [*established by a particular State, or*] under the authority of the United States (except those peculiarly belonging to the functions of the first Branch) during the term of service, <sup>^</sup> [*and under the National Government for the space of one year after its expiration.*]

4. Resolved, that the Members of the second Branch of the U. S.

the [*National*] Legislature <sup>^</sup> ought to be chosen by the individual Legislatures : to be of the Age of 30 years, at least ; of six years, one third of whom to go to hold their Offices for the Term <sup>^</sup> [*sufficient to ensure their out of office biennially ; compensation for independancy namely of seven years.*]—to receive <sup>^</sup> [*fixed Stipends, by which they may be compensated for*] the devotion of their time to public service,—to be paid out of the National Treasury.

To be ineligible to any office established by a particular State, or under the authority of the United States (except those peculiarly belonging to the functions of the second Branch) during the term of service, and under the National Government for the space of one year after its expiration.

agreed to without  
amendment.

5. Resolved, that each Branch ought to possess the right of originating Acts. possess

6. Resolved, that the National Legislature ought to [*be empowered to enjoy*] the Legislative Rights vested in Congress by the Confederation ; and moreover to Legislate in all cases to which the separate States are incompetent, or in which the harmony of the United States may be interrupted by the exercise of individual Legislation,—to negative all laws passed by the several States contravening, in the opinion of the National Legislature, the Articles of Union, or any Treaties subsisting under the Authority of the Union.

carried 6. ay. 4 no  
1 divided

7. Resolved, that the Right of suffrage in the first Branch of the National Legislature ought *not* to be according to the Rule established in the Articles of Confederation, but according to some equitable Ratio of representation, namely, in proportion to the whole number of White and other free Citizens and Inhabitants, of every Age, Sex and Condition, including those bound to servitude for a Term of Years, and

three fifths of all other persons, not comprehended in the foregoing discription, except Indians not paying Taxes in each State.

8. Resolved, that the right of suffrage in the second Branch of the Nation<sup>l</sup> Legislature ought to be according to the rule established for the first.

9. Resolved, that a National Executive be instituted, to consist of a *single person* to be chosen by the National Legislature for the term of seven years, with Power to carry into execution the National Laws — to appoint to Offices in cases not otherwise provided for ; to be ineligible a second time ; and to be removable on Impeachment and Conviction of Mal-Practice, or neglect of duty. To receive a fixed stipend by which he may be compensated for the Devotion of his time to public service ; to be paid out of the National Treasury.

10. Resolved, that the National Executive shall have a Legislative right to negative any [*National*] Act, which shall not be afterwards passed unless by two third parts of each Branch of the National Legislature.

11. Resolved, that a National Judiciary be established, to consist of one Supreme Tribunal, — the Judges of which to be appointed by the second Branch of the National Legislature ; to hold their offices during good behaviour and to receive punctually at stated times, a fixed compensation for their services, in which no increase or diminution shall be made, so as to affect the persons actually in office at the time of such increase or diminution.

12 Resolved, that the Nat<sup>l</sup> Legislat<sup>e</sup> be empowered to appoint inferior Tribunals.

13 Resolved, that the Jurisdiction of the National Judiciary shall extend to cases which respect the collection of the National Revenue ; — Impeachments of any National Officers, and questions which involve the Na<sup>l</sup> peace and harmony.

14. Resolved, that Provision ought to be made for the admission of States, lawfully arising within the limits of the United States ; whether from a voluntary Junction of Government and Territory, or otherwise, with the consent of a Number of Voices in the National Legislature less than the whole.

15. Resolved, that provision ought to be made for the continuance of Congress and their Authorities and privileges, until a given day after the reform of the Articles of Union shall be adopted ; and for the completion of all their Engagements.

16. Resolved, that a Republican Constitution, and its

existing laws, ought to be garraunteed to each State, by the United States

17. Resolved, that provision ought to be made for the amendment of the Articles of Union, whensoever it shall seem necessary.

18. Resolved, that the Legislative, Executive, and Judiciary Powers within the several States, ought to be bound by Oath, to support the Articles of Union.

19. Resolved, that the amendments which shall be offered to the Confederation, by the Convention, ought at a proper time or times, after the Approbation of Congress, to be submitted to an Assembly or Assemblies of Representatives, recommended by the several Legislatures, to be expressly chosen by the People to Consider and decide thereon. [*Indorsement*: Report of Committee 12 June 1787]

### III. NOTES APPARENTLY USED BY PATERSON IN PREPARING THE NEW JERSEY PLAN, JUNE 13-15.

#### A.

1. Resolved, That a union of the States merely federal ought to be the sole Object of the Exercise of the Powers vested in this Convention.<sup>1</sup>

2. Resolved, That the Articles of the Confederation ought to be so revised, corrected, and enlarged as to render the federal Constitution adequate to the Exigencies of Government, and the Preservation of the Union —<sup>2</sup>

3. Resolved, That the federal Government of the United States ought to consist of a Supreme Legislative, Executive, and Judiciary —

<sup>1</sup> This resolution is partly stricken out in the original. Jameson says these five resolutions may not improbably be attributed to John Lansing, Jr., of New York. He also says that it will be plainly seen that it represents an early stage of the Paterson plan. The fifth resolution is especially noteworthy. "In short," says Jameson, "we have in this document a *Vorschift* for the New Jersey plan, drawn up by a man or men who were willing to go but little beyond" the schemes earlier proposed. *Ann. Rep. Am. Hist. Assoc.*, 1902, I. 142.

<sup>2</sup> This resolution is thus given in Madison's notes, *Documentary History*, III. 125. It is the first resolution of Paterson's plan as there given. Jameson argues (p. 137) that this could not have been the first of Paterson's resolutions as finally presented. His evidence is probably conclusive; and yet it should be noticed that the resolution offered by Dickinson, "That the Articles of Confederation ought to be revised and amended, so as to render the Government of the United States adequate to the exigencies, the preservation, and the prosperity of the Union," would not be acceptable to either party. Paterson's supporters would wish to retain the words "federal Constitution." Is not Dickinson's motion characteristic?



4. Resolved, That the Powers of Legislation ought to be vested in Congress.<sup>1</sup>

5. Resolved, That in Addition to the Powers vested in the United States in Congress by the present existing Articles of Confederation, they be authorized to pass Acts for levying a Duty or Duties on all Goods and Merchandize of foreign Growth or Manufacture imported into any Part of the United States not exceeding            per Cent. ad Valorem to be applied to such federal Purposes as they shall deem proper and expedient, and to make Rules and Regulations for the Collection thereof; and the same from Time to Time to alter and amend in such Manner as they shall think proper. Provided, That all Punishments, Fines, Forfeitures, and Penalties to be incurred for contravening such Rules and Regulations shall be adjudged and decided upon by the Judiciaries of the State in which any Offence contrary to the true Intent and Meaning of such Rules and Regulations shall be committed or perpetrated; subject nevertheless to an Appeal for the Correction of any Errors in rendering Judgment to the Judiciary of the United States.

Imposts    Excise —  
Stamps — Post-Office —  
Poll-Tax —

That the United States in Congress be also authorized to pass Acts for the Regulation of Trade as well with foreign Nations as with each other, and for laying such Prohibitions, and such Imposts and Duties upon Imports as may be necessary for the Purpose; Provided, That the Legislatures of the several States shall not be restrained from laying Embargoes in Times of Scarcity; and provided further that such Imposts and Duties so far forth as the same shall exceed . . . per Centum ad Valorem on the Imports shall accrue to the Use of the State in which the same may be collected<sup>2</sup>

### B.<sup>3</sup>

1. Resolved, That the articles of the confederation ought to be so revised, corrected, and enlarged as to render the federal constitution adequate to the exigencies of government, and the preservation of the union —

2. Resolved, That the alterations, additions, and provisions made in and to the articles of the confederation shall be reported to the united states in congress and to the individual states composing the union, agreeably to the 13<sup>th</sup> article of the confederation —

<sup>1</sup> See Jameson, *loc. cit.*, 140-141.

<sup>2</sup> This resolution is somewhat similar to the second resolution as given in Madison's notes, *Documentary History*, III. 125, and in the Brearley copy, *ibid.*, I. 322. Either no more was written of this paper or Paterson copied no more, Jameson, *loc. cit.*, 142.

<sup>3</sup> This goes farther than A and marks a later stage of the plan.

3. Resolved, That the federal government of the united states ought to consist of a supreme legislative, executive, and judiciary —

4. Resolved, That the powers of legislation be vested in Congress —

See M<sup>r</sup>. Lansing—

5.

See Gov. Randolph's.

6.

7<sup>th</sup> Prop.

7.

Same — 7<sup>th</sup>

Resolved, That every State in the Union as a State possesses an equal Right to, and Share of, Sovereignty, Freedom, and Independance —

Resolved, therefore, that the Representation in the supreme Legislature ought to be by States, otherwise some of the States in the Union will possess a greater Share of Sovereignty, Freedom, and Independance than others —

Whereas it is necessary in Order to form the People of the U. S. of America into a Nation, that the States should be consolidated, by which Means all the Citizens thereof will become equally intituled to and will equally participate in the same Privileges and Rights, and in all waste, uncultivated, and back Territory and Lands; it is therefore resolved, that all the Lands contained within the Limits of each State individually, and of the U. S. generally be considered as constituting one Body or Mass, and be divided into thirteen or more integral Parts.<sup>1</sup>

Resolved, That such Divisions or integral Parts shall be styled Districts.

### C.

Reproduced in facsimile on page 319. A copy by Paterson of the first four resolutions, but not numbered, and without the erasures and interlineations found in B. Aside from minor variations, C differs from B only in the second resolution, where "shall" is changed to "ought to."<sup>2</sup>

<sup>1</sup> To account for such a proposition as this in connection with the New Jersey plan is a matter of some difficulty. In the original paper this resolution is so written as undoubtedly to be joined with the preceding. Otherwise it might seem to be a mere sporadic note. Reference is evidently made to this in other notes and memoranda below. See also Brearley's speech of June 9, where the erasure of state boundaries is advocated, and Paterson's reference to the same idea, *Doc. Hist.*, III. 96, 97. See also especially Madison's speech of June 19. It is apparent that Paterson and Brearley proposed this as the only way of doing justice to the large states and securing the safety of the small states. *Ibid.*, III. 161.

<sup>2</sup> See Jameson, *loc. cit.*, 142.

Resolved, That the articles of the confederation ought to be so revised, corrected, & enlarged as to render the federal constitution adequate to the exigencies of government, and the preservation of the union —

Resolved, That the alterations, additions, and provisions made in and to the articles of the confederation ought to be reported to the united States in congress and to the individual States composing the union, agreeably to the thirteenth article of the confederation —

Resolved, That the federal government of the united States ought to consist of a Supreme legislative, executive, and judiciary.

Resolved, That the Powers of Legislation be vested in Congress —

IV. NOTES FOR SPEECHES.<sup>1</sup>A. *Notes for Speech of June 9.*<sup>2</sup>

1. The Plan.
2. The words national and federal.
3. Collection of Sentiment — Object, to take under Consideration the State of the American Union —

Consider the Nature and Construction of this Assembly. Formed under the act of Congress passed in Conformity with one of the Articles of the Confed<sup>n</sup>

See the Com.<sup>n</sup> from Mass.<sup>ts</sup>

Assumption of Power —

The Com.<sup>n</sup> measures our Power — to revise the Confed<sup>n</sup> to report to Congress and the several Leg.<sup>s</sup> — must not go beyond our Powers —

Self-constituted and self-ordained Body.

The Com.<sup>s</sup> give the political Complexion of the several States — not ripe — we must follow the People ; the People will not follow us — The Plan must be accommodated to the public Mind — consult the Genius, the Temper, the Habits, the Prejudices of the People.

A little practicable Virtue to be preferred to Theory.

Not to sport Opinions of my own — not to say w<sup>t</sup> is the best Gov<sup>t</sup> or what ought to be done — but what can be done — w<sup>t</sup> can we do consistently with our Powers ; w<sup>t</sup> can we do that will meet with the Approbation of the People — their Will must guide —

Insurrections — So there are in every Gov<sup>t</sup> — even in England — it may shew, that our particular Systems are wrong — that our Inst<sup>ns</sup> are too pure — not sufficiently removed from a State of Nature to answer the Purposes of a State of Society — it will not militate ag<sup>t</sup> the democrattick Principle when properly regulated and modified —

The democrattick Spirit beats high —

Not half wrong enough to have a good Gov<sup>t</sup> —

<sup>1</sup> The notes numbered A-E are in the Bancroft copies marked “Notes for speech of 9 June,” but it is by no means clear that all these are notes for the speech of that day. Apparently Paterson worked over his argument several times, and the burden of his thought was somewhat consistently the same: the want of power in the Convention; the unreadiness of the people to support a plan for a consolidated government; the maintenance of the equality of the states. In the notes of Madison, Pierce, King, and Yates we find no indication that Gouverneur Morris made a speech on the ninth. The words in A given in connection with the name of Morris appear again in B.

<sup>2</sup> This document is in the possession of Miss Emily K. Paterson.

<sup>3</sup> Commission.

2. The Plan proposed — The 1<sup>st</sup> Prop<sup>n</sup> withdrawn<sup>1</sup> — it was incompatible with the 2<sup>d</sup> The Principles were gradually unfolded —

W<sup>t</sup> Q<sup>y</sup> of Land—

The 1 Prop<sup>n</sup> accords with the Spirit of the Const<sup>n</sup>

Each State is sovereign, free, and independ<sup>t</sup> etc. Sovereignty includes Equality —

If then the States in Union are as States still to continue in Union, they must be considered as Equals —

13 sovereign and independent States can never constitute one Nation, and at the same Time be States — they may by Treaty make one confederated Body —

M<sup>r</sup> Randolph — We ought to be one Nation — etc. The States as States must be cut up, and destroyed — This is the way to form us into a Nation<sup>2</sup> — It has Equality — it will not break in upon the Rights of any Citizen — it will destroy State Politicks and Attachm<sup>ts</sup>. Will it be acceded to, etc.

G. Morris — Every Citizen should enjoy a rateable Proportion of Sovereignty —

The Mind of Man is fond of Power —

Fœtus of a Monarch —<sup>3</sup>

Enlarge his Prospects, you increase his Desires — Proportion of Votes — State-Politicks, State-Attachments, State-Influence, State-Passions — Districts —

An infant Hercules in his Cradle —

Great Britain and America — Suppose Represent<sup>n</sup> from the latter before the Revolut<sup>n</sup> according to the Quantum of Property or Number of Souls — W<sup>t</sup> the Consequence —

3 Article<sup>4</sup> — Com. Defence, Security of Liberty, mutual and general Welfare.

A national Gov<sup>t</sup> to operate individually upon the People in the first Instance, and not upon the States — and therefore a Representation from the People at large and not from the States —

Will the Operation of the nat<sup>l</sup> Gov<sup>t</sup> depend upon the Mode of Represent<sup>n</sup> — No — it depends upon the Quantum of Power lodged in the leg. ex. and jud<sup>t</sup> Departments — it will operate individually in the one Case as well as in the other —

Why not operate upon the States — if they are coerced, they will in Turn coerce each individual —

<sup>1</sup> Evidently referring to Randolph's first proposition as contradicting the second. The first resolution of Randolph is distinctly like the first of Paterson's as the Paterson plan appears in Madison's notes, *Doc. Hist.*, III. 125. Paterson was here contending that Randolph's original first proposition was constitutionally sound, *i. e.* in conformity with the Articles.

<sup>2</sup> Apparently a reference to the idea later embodied in the resolution in III. B, above, page 318. See also Paterson's speech of June 9.

<sup>3</sup> Randolph used this expression June 2. See Pierce's notes, *AM. HIST. REV.*, III. 322.

<sup>4</sup> Referring to the third article of the Articles of Confederation.

Let the People elect the State-Leg<sup>r</sup> — The State-Leg<sup>r</sup> elect the federal Leg<sup>r</sup> — assign to the State Leg<sup>r</sup> its Duty — the same to the federal — they will be Checks upon each other, and the best Checks that can be formed — Cong. the Sun of our political System —

Why a Representation from the People at large — to equalize Represent<sup>n</sup> Maj<sup>r</sup> Butler — Represent<sup>n</sup> — Property — People —

M<sup>r</sup> Wilson — Majority of the States sufficient. This in Opposition to M<sup>r</sup> King —

2 Views. 1. Under the Confed<sup>n</sup> — 13<sup>th</sup> Article — Rhode-Island. 2. As forming an original Combin<sup>n</sup> or Confederacy — can bind the contracting Parties only —

The large States can agree upon a Reform only upon the Principle of an equal Represent<sup>n</sup>.<sup>1</sup>

11 Prop<sup>n</sup>.<sup>2</sup>

If the lesser States form a Junction of Gov<sup>t</sup> and Territory, the G<sup>r</sup>.<sup>3</sup> ceases to operate as to them — This will prevent a Consolid<sup>n</sup> of Gov<sup>t</sup> and Territory —

The People will likewise prevent any new State from being taken from the old — Vermont — Kentucky — several in Embryo — Republicks — Monarchies — large Frontiers.

#### B. Notes for Speech of June 9.

1. The Confederation — its leading Principle. unanimously assented to —

2. The Nature and Construction of this Assembly. Formed under the Confed<sup>n</sup> Res<sup>n</sup> of Congress — The Com<sup>n</sup> measures our Power — it gives the political Complexion of each State — to revise the Confed<sup>n</sup>

Must not go beyond our Powers — People not ripe —

A little practicable Virtue to be preferred to Theory.

What expected — Regulation of Commerce, Coll<sup>n</sup> of the Revenue, Negative, etc this will draw after it such a Weight of Influence and Power as will answer the Purpose — they will call forth the dormant Powers —

3. The Plan proposed. The 1 Prop<sup>n</sup> withdrawn — it was incompatible with the 2<sup>d</sup>.<sup>4</sup> Much Dispute about Dist<sup>n</sup> between federal and National Governments. The Principle was gradually unfolded —

<sup>1</sup> So the original plainly says. Possibly Paterson meant to write unequal; or by "equal" he meant just or proportional.

<sup>2</sup> Referring to the eleventh proposition of the Virginia plan: "Res<sup>d</sup>, that a Republican Government and the territory of each State, except in the instance of a voluntary junction of Government and territory, ought to be guaranteed by the United States to each State."

<sup>3</sup> Guaranty.

<sup>4</sup> See above, page 321, note 1.

W<sup>t</sup> Q<sup>y</sup> of Land, etc  
they approach each other,  
etc.

The 1 Prop<sup>n</sup> accords with the Spirit of the Confed<sup>n</sup> Each State is sovereign, free, and independent etc. The Idea of a Supreme, and the Maxim Imperium in Imperio —

If then the States in Union are as States still to continue in Union, they must be considered as Equals, etc.

13 sovereign and independant states can never constitute one Nation; they may by Treaty make one confederated Body —

M<sup>r</sup> Randolph — we ought to be one Nation — 2 Article<sup>1</sup> — 5<sup>th</sup> Article<sup>1</sup> —

G. Morris — Every Individual should enjoy a rateable Proportion of Sovereignty —

Districts —

3 Article<sup>1</sup> — Common Defence, Security of Liberty, mutual and general Welfare — Proportion of Votes.

11 Prop<sup>n</sup>

If the lesser States form a Junction of Gov<sup>t</sup> and Territory, the G<sup>v</sup> ceases to operate as to them — This will prevent a Consol<sup>n</sup> of Gov<sup>t</sup> and Territory —

The Prop<sup>n</sup> will likewise prevent any new States from being taken from the old — Vermont, Kentucky — Several in embryo — Republics — Monarchies — large Frontiers —

The large States can agree to a Reform only upon the Principle of an Equality of Represent<sup>n</sup>

In what we are all agreed —

C. Notes for speech of June 9.

Mass.

“ for the sole and express Purpose of revising the Articles of Conf<sup>dn</sup> and reporting to Congress and the several Leg<sup>s</sup> such Alterations and Provisions therein as shall when agreed to in Congress and confirmed by the States render the federal Const<sup>n</sup> adequate to the Exigencies of Government and the Preserv<sup>n</sup> of the Union.”

Connect<sup>t</sup> as above —

Jersey, etc

Georgia,

<i>States.</i> <sup>2</sup>	<i>Quota of Tax.</i>	<i>Delegates.</i>
Virginia.....	512,974.....	16.
Massachusetts.....	448,854.....	14.
Pennsylvania.....	410,378.....	12. $\frac{3}{4}$ . 42 $\frac{3}{4}$
Maryland.....	283,034 .....	8. $\frac{3}{4}$ .

<sup>1</sup> Evidently a reference to the second, fifth, and third articles of the Articles of Confederation.

<sup>2</sup> This table is printed in *Doc. Hist.*, I. 331, except that the column giving quotas is not footed here. It is there dated “Sep<sup>r</sup> 27<sup>th</sup> 1785,” and indorsed “hon. D. Brearly Esq.”

<i>States.</i>	<i>Quota of Tax.</i>	<i>Delegates.</i>
Connecticut.....	264,182.....	8-
New York .....	256,486.....	8-
North Carolina .....	218,012.....	6¾.
South Carolina .....	192,366.....	6-
New Jersey .....	166,716.....	5-
New Hampshire .....	105,416.....	3¼.
Rhode Island... ..	64,636 .....	2-
Delaware .....	44,886.....	1¼.
Georgia .....	32,060 .....	1.
		90-

D. *A Fragment, possibly connected with Paterson's Speech of June 9.*

Ambition goads him on. The Impulse is progressive — enlarge his Prospects, and you enlarge his Desires. As to orders — as to Societies. Mithradates — Com. Defence — Liberty.

M<sup>r</sup> Madison — Districts.

M<sup>r</sup> King.

Guarranty.

Nature of Gov<sup>ts</sup>

So corrected and enlarged.

Regulation of Commerce,  
the Collection of Revenue.

Negative in particular Cases.

To promote the general Welfare, to protect Liberty and Property.

Cr. Lands.

E. *Notes for Speech of June 9.*

1 — Great Britain and America — Represent<sup>n</sup> from the latter before the Revolution according to the Number of Souls — W<sup>t</sup> the Consequence.<sup>1</sup>

2. Representation from the People at large and not from the States<sup>2</sup>—

3. National Governm<sup>t</sup> to operate individually upon the People in the first Instance, and not upon the States<sup>3</sup>—

*Durability.*

<sup>1</sup> Apparently referring to the argument used in his speech of June 9: "It was once proposed by Galloway and some others that America should be represented in the British Parl<sup>t</sup> and then be bound by its laws. America could not have been entitled to more than ⅓ of the N<sup>o</sup> of Representatives which would fall to the share of G. B. Would American rights and interests have been safe under an authority thus constituted?" Madison's notes, in *Documentary History*, III. 98.

<sup>2</sup> *Ibid.*

<sup>3</sup> *Ibid.*



F. *Notes for Speech of June 16.*<sup>1</sup>

1. Because it accords with our Powers. Suppose an Attorney. Who can vote ag<sup>t</sup> it— If Confed<sup>n</sup> cannot be amended, say so — The Experim<sup>t</sup> has not been made.

2. Because it accords with the Sentiments of the People.

1. Com.<sup>s</sup>

2. News-papers — Political Barometer. Jersey never would have sent Delegates under the first Plan —

Not to sport Opinions of my own. W<sup>t</sup> can be done. A little practicable Virtue preferable to Theory.

1. As States — independant of any Treaty or Confed<sup>n</sup> —

Each State is sovereign, free, and independant — Sovereignty includes Equality. We come here as States and as Equals — Why vote by States in Convention — We will not give up the Right —

M<sup>r</sup> Wilson — A Principle given up in the first Confed<sup>n</sup><sup>2</sup>

2. As under the existing Articles of the Confed<sup>n</sup>

5<sup>th</sup> Article — unanimously entered into.

Back Lands — Jersey — Maryland —<sup>3</sup>

A Contract. The Nature of a Contract. Solemnly entered into — Why break it — why not the new or present one be broke in the same Manner —

*Convenience.*

The last Clause in the Confed<sup>n</sup> —

Some of the States will not consent —

*Self-Destruction.*

Hitherto argued upon Principlè — as States — as subsisting Treaties — The Danger to the lesser States — The Natural Progress of Power — Combination of Parts — Orders — States — Proportion of Votes — State-Politicks and Attachments — Great Britain and America —

Obj<sup>ns</sup> The larger States contribute most, and therefore Represent<sup>n</sup> ought to be in Proportion —

No — they have more to protect.

2. For the Sake of preserving the Liberty of the others —

3. Wealth will have its Influence —

Obj<sup>n</sup> — M<sup>r</sup> Wilson<sup>4</sup> — first Principles — All Authority de-

<sup>1</sup> This document is in possession of Miss Emily K. Paterson.

<sup>2</sup> Wilson, according to Madison's notes, made use of some such expression in his speech of June 9, *Doc. Hist.*, III. 99.

<sup>3</sup> "It was the small ones that came in reluctantly and slowly. N. Jersey and Maryland were the two last, the former objecting to the want of power in Congress over trade: both of them to the want of power to appropriate the vacant territory to the benefit of the whole." Paterson, June 16, as condensed by Madison, *Ibid.*, 131.

<sup>4</sup> Reference is made here and in many of the succeeding arguments to Wilson's speech of June 9, *Doc. Hist.*, III. 99.

Abolition of the lesser States —

A rich State and poor State in same Relation as a rich Individual and a poor one.

rived from the People — The People entitled to exercise Authority in Person. One free Citizen ought to be of equal Importance with another — true — One free State of equal Importance with another — Both true when properly applied. The Beauty of all Knowledge consists in the Application —

One free Citizen ought to be of equal Importance with another — they are Members of the Society, and therefore true — England and Switzerland. Pennsylv<sup>a</sup> and Jersey — they have the same Privileges, partake in the sam<sup>e</sup> common Stock, for Instance, in back and unlocated Lands. The Gen<sup>n</sup> soon found out the Diff<sup>e</sup> between a Pennsylv<sup>a</sup> and a Jersey-Man when we talked of Consolid<sup>n</sup> then the Pennsylv<sup>a</sup> gave up  $\frac{1}{3}$  — No ; no — A Nation, when it is necessary to go by Majority of Votes, a State, when it is necessary to divide the common Stock —

A large County and a small County —<sup>1</sup>

Equalize the States — No Harm — no Hurt. No authority for that Purpose — and then it is impracticable —

*Authority* — Why talk of the first set of Propositions —

Impracticable — how does that appear — Make the Experiment — Propose the Measure to the Consideration of the States —<sup>2</sup>

Obj<sup>n</sup> — There must be a national Governm<sup>t</sup> to operate individually upon the People in the first Instance, and not upon the States — and therefore a Representation from the People at Large and not from the States —

1. Will the Operation and Force of the Gov<sup>t</sup> depend upon the mode of Represent<sup>n</sup> — No — it will depend upon the Quantum of Power lodged in the leg. ex. and jud<sup>y</sup> Depart-

<sup>1</sup> Perhaps referring to Williamson's speech of June 9, which he made in answer to Paterson, *Doc. Hist.*, III. 100.

<sup>2</sup> Paterson's argument in these paragraphs may be this : The gentlemen are desirous of making a nation ; but when we propose consolidation by a redivision of the states so that the parts may be equal, then it is apparent that Pennsylvania would lose a portion, one-third, of its land. They are for a nation, when it is a question of voting, but they are for the state when a division of the land is proposed, or a division of the common stock. Let us try the plan of equalizing the states. No harm will be done. Gentlemen argue that they have no authority. If they are hesitating because of want of authority, why do they talk of the Randolph plan ? They have no authority to propose those measures either. Why is it argued that it is impracticable to throw the land into a common stock and divide the states anew ? How does that appear ? Make the experiment. Propose the measure to the consideration of the states.

If Paterson and Brearley had this scheme as much in mind as it would appear they had, it is apparent that they were not quite so determined as some to adhere to the principle of the Confederation as the *only* solution. There came out distinctly the old small state jealousy and above all the interminable land question which had agitated the states almost from the beginning of the war.

ments — it will operate individually in the one Case as well as in the other —

2. Congress are empowered to act individually or to carry the Req<sup>t</sup> into Exec<sup>n</sup> in the same Manner as is set forth in the first Plan —

3. If not, it may be modified to answer the Purpose.

4. If it cannot be done, better than to have some States devoured by others —

Obj<sup>n</sup> — Congress not sufficient — there must be two Branches — a House of Delegates and a Senate ; why, they will be a Check — This not applicable to the supreme Council of the States — The Representatives from the several States are Checks upon each other.

In a single State Party Heat and Spirit may pervade the whole, and a single Branch may of a sudden do a very improper Act — A second Branch gives Time for Reflexion ; the Season of Calmness will return, etc. Is this likely to be the Case among the Representatives of 13 States —

What is the Fact — Congress has hitherto conducted with great Prudence and Sagacity — the People have been satisfied — Give Congress the same Powers, that you intend to give the two Branches, and I apprehend they will act with as much Propriety and more Energy than the latter.

The Chance for Wisdom greater — Refinement — Secrecy —

The Expence will be enormous —

Congress the Sun of our political World.

*G. Notes, probably for a Speech not delivered.<sup>1</sup>*

1. The Equality of the States — Sovereignty and Equality are convertible Terms. Pennsylv<sup>a</sup> a distinct political Being —

2. As under the existing Articles of the Confed<sup>n</sup> A Contract solemnly entered into,

3. The Danger to the lesser States.

4. The Impracticability of the present System.

5. Its Expence —

It must be admitted, that before a Treaty can be binding, each State must consent.

<sup>1</sup> This document is in the possession of Miss Emily K. Paterson. These notes are in one document, and it has not seemed wise to separate them. On the Bancroft copies the first portion, *i. e.* to the words "Obj<sup>n</sup> M<sup>r</sup>. Wilson — The Minority," is headed "Notes for speech of 16 June"; what follows is headed "Notes of Wilson's of 30 June; Madison's of 19 June; King's of 30 June cf. Elliot V." A comparison with the notes given below in V. E., page 336, belonging to June 30, seems to show that the remarks of Madison, as well as those of Wilson and King as here given were made on June 30.

Obj<sup>ns</sup> —

The larger States contribute most — and therefore Represent<sup>n</sup> ought to be in Proport<sup>n</sup>.

1. Ans<sup>r</sup>. They have more to protect. A rich State and a poor State in same Relation as a rich Individual and a poor one.

2. For the Sake of preserving the Liberty of the others — Compromise — Their System.

3. Wealth will have its Influence.

Obj<sup>n</sup> M<sup>r</sup> Wilson — The Minority will vote away the Property of the Majority.

Ans<sup>r</sup>. This secured by the first Branch — <sup>1</sup>

The Majority will vote away the Liberties of the Minority <sup>2</sup>

— W<sup>is</sup> is Wealth when put in Competition with Freedom —

The lesser States will destroy the larger — Lamb and Lyon —

Mad<sup>n</sup> Coercion never  
can be used ag<sup>t</sup> a large  
State.

Obj<sup>n</sup> M<sup>r</sup> Maddison — The Confed<sup>n</sup> inadequate to its Purposes. Repeated Violations in every State — Each Violation renders the Confed<sup>n</sup> a Nullity — <sup>3</sup>

1 No. The same Power to rescind as to make. It would be in the Power of one Party always to abrogate a Compact.

Obj<sup>n</sup> M<sup>r</sup> Maddison — The Confed<sup>n</sup> obtained by the Necessity of the Times.

Is the Plea of Compulsion set up. Look at the Confed<sup>n</sup> unanimously assented to — M<sup>r</sup> Wilson given up — Not complained of — We come here under that Confed<sup>n</sup>.

Obj<sup>n</sup> M<sup>r</sup> King — Equality is the Vice of the present System. How does it appear —

Object<sup>n</sup> — M<sup>r</sup> King <sup>4</sup> — The great Charter of England — Certain constitutional Principles to be observed — Power in the Mag<sup>y</sup> to prevent a Violation of fundamental Principles — Union of England and Scotland.

1. A Union or Consolidation — this a Confederacy.

2. It was to be sure agreed to — Bribery made use of —

3. A King.

4. The Vicinity of France —

The last Time of Meeting —

H. *Notes apparently for Speech of July 9.*

Number of Inhabitants.

New Hampshire in 1774.....100,000.

Massachusetts in 1774.....400,000.

<sup>1</sup> This would seem to make it plain that this note was made after June 29.

<sup>2</sup> This probably from Ellsworth.

<sup>3</sup> A reference to V. E. below and to *Doc. Hist.*, III. 253, will show that this is a part of Madison's speech of June 30.

<sup>4</sup> *Doc. Hist.*, III. 262.

Rhode-Island by a Return to the Legislature in Feb <sup>r</sup> 1783.	
48.538 Whites. }	
3.331 Blacks. }	51.869.
Connecticut in 1774.....	
Whites 192.000. }	
Blacks (nearly) 6.000. }	198.000.
in 1782 nearly.....	220.0.0.
New York in 1756. 96.775.	
in 1771. 168.000.	
in 1786. Whites 219.996. }	
Blacks 18.889 }	238.885.
New Jersey in 1783.	
about 10,000 Blacks included—	139.000.
Pennsylvania—	
Delaware—	
Maryland in 1774 estimated at.	
Blacks 3/7.....	350.000.
150.000.	
Virginia in 1774.....	
Blacks as 10 to 11... ..	650.000.
	300.000.
In the lower States the acc <sup>ts</sup> are not to be depended on —	

The Proportion of Blacks.

In Connecticut as 1. to 33.  
 The same Ratio will answer for Massachusetts —  
 In Rhode-Island as 1 to 15½.  
 In New York as 1 to 12 nearly.  
 In New Jersey as 1 to 13 nearly.

20.1	Virginia .....	9.	10
40.1	Mass <sup>ts</sup> .....	7.	8
80.1	Pennsylv <sup>a</sup> .....	8.	8
160.1	Maryland .....	4.	6.
	Connecticut .....	4.	5.
	New York .....	5.	6.
	N. Carolina .....	5.	5.
	S. Carolina .....	5.	5.
	N. Jersey .....	3.	4.
	New Hamsphire .....	2.	3.
	Rh. Island .....	1.	1
	Del. ....	1.	1
	Georgia .....	2.	3.
		56.	65 <sup>1</sup>

<sup>1</sup>The first column shows the representation according to Morris's report of July 9; the second that provided for by King's report from committee, July 10.

4 East <sup>n</sup> States	17.
5 Middle States	25.
4 South <sup>n</sup> States	23.
	65

## V. NOTES ON DEBATES.

A. *Notes on Debate of June 9.*<sup>1</sup>M<sup>r</sup>. Brearley.

unfair ; because of the Combination of the Parts.  
Districts—

M<sup>r</sup>. Wilson —

Equalize the States—

All Authority is derived from the People—the People entitled to exercise Authority in Person — Italy — Roman Citizens —

2 Things necessary—1. That the Representatives express the Sentiments of the represented. 2. That the Sentiments thus expressed should have the same Operation as if expressed by the People themselves —

Numbers the best Estimate of Property. One free Citizen ought to be of equal Importance with another.

One Mass — 13 — it will be given away 1/3 of the Territory —

No Authority — it is besides impracticable.

He wishes the Distinction of States might be destroyed.

A Principle given up in the first Confed<sup>n</sup>

M<sup>r</sup>. W<sup>m</sup>.son.

It does not appear to him, that the lesser States will be swallowed up.

A small County, and a large County ; according to Numbers —

M<sup>r</sup>. MaddisonB. *Notes on Debate of June 11.*

Resolved, That the Rights of Suffrage in the first Branch of the national Leg<sup>r</sup> ought not to be according to the Article of Confed<sup>n</sup>, but according to some equitable Ratio of Representation —

Rutledge.

Not by the Number of free Inhabitants, but according to the Quotas of Contribution —

Dickinson —

The Terms, "Quotas of Contribution," very indefinite — it ought to be according to the *actual Contribution* —

W<sup>m</sup>.son.

Supposes, that there will not be any Assignment or Quotas to States ; the Govern<sup>mt</sup> to operate individually, and not on States —

Dickinson

The Power to be in Proportion to actual Contribution —

King —

Suppose an Impost—Connecticut and Jersey do not import — they will have no Representatives —

Butler.

This to be left to the State Leg<sup>rs</sup> — Sum to be proportioned —

<sup>1</sup> See *Documentary History*, III. 94 ff.

Wilson.

Either Rule good — by Numbers best to ascertain the Right of Represent<sup>n</sup> this agreeably to the Sentiments of 11 States — Impost alone will not be sufficient to answer the national Exigencies — Revenues arising from Postage — The present Quota not a lasting Rule — People to be numbered at fixed Periods — A Rule arising from Property and Numbers —

Gerry.

Rule of Taxation not the Rule of Representation — 4 might then have more Voices than ten — Slaves not to be put upon the Footing of freemen — Freemen of Mass<sup>ts</sup> not to be put upon a Footing with the Slaves of other States — Horses and Cattle ought to have the Right of Represent<sup>n</sup> Negroes — Mules —

Madison.

The Taxes must be drawn by the nat<sup>l</sup> Governmt. immediately from the People ; otherwise will never be collected — Leave the particular Rule for the present. A common Standard ought to be provided —

*C. Notes on Debate of June 16.*

Lansing —

Contrasts the Principles of the two Systems —

The national Plan proposes to draw Represent<sup>n</sup> from the People.

The federal Plan proposes to draw Represent<sup>n</sup> from the States.

The first will absorb the State-Governm<sup>ts</sup>

1. The Powers of the Convention.

2. The Probability as to the Adoption of either System — Publick Acts — particularly the Act respecting the Impost.

Reasoning upon Systems unsupported by Experience generally erroneous —

Paterson.

Wilson<sup>1</sup>

The Plans do not agree in the following Instances.

1. The Gov<sup>t</sup> consists of 2 Branches.

2. The original Authority of the People at Large is brought forward.

3. Representation to be according to the Number and Importance of the Citizens.

4. A single Executive.

5. A Majority of the United States are to control.

6. The national Leg. can operate in all Cases in which the State Leg. cannot.

7. The national Leg. will have a Right to negative all State-Acts contravening Treaties, etc.

8. Ex. Mag. removable on Conviction.

to connect them together as States.

<sup>1</sup> We have here a new summary of Wilson's long and able speech of this date.

9. The Ex. to have a qualified Negative over Acts of the Leg<sup>r</sup> —

10. Provision is made for superior Tribunals —

11. The Jurisd<sup>n</sup> of the national Leg<sup>r</sup> is to extend to all Cases of a national Nature.

12. National Peace, all Questions comprehending it, will be the Object of the national Judiciary —

13. Delegates to come from the People.

The relative Merit of the two Plans.

1. Upon Principles

2. Upon Experience.

3. The joint Result of both.

He can conclude finally Nothing ; and to propose every Thing — he may propose any Plan —

Sentiments of the People ; those with whom we converse we naturally conclude to be the Sentiments of the People.

States Sovereignments and State Governm<sup>ts</sup> not so much an Idol as is apprehended — a national Government to protect Property and promote Happiness, the Wish of the People.

Will a Citizen of New Jersey think himself honoured when addressed as a Citz<sup>n</sup> of that State, and degraded when addressed as a Citizen of the U. S.

The People expect Relief from the national Councils ; it can be had only from a national Governm<sup>t</sup> —

*Equalization—*

A new Proposal thrown out for the Sentiments of the People.

Ad<sup>d</sup> Powers ought not to be given to Congress. Obj<sup>ns</sup> to that Body.

1. Congress as a legislative Body does not stand upon the Authority of the People.

2. Congress consists of but one Branch.

An equal Represent<sup>n</sup> in Proportion to Numbers.

Ans<sup>w</sup><sup>r</sup> Citizens of the same State.

The Foundation, the Progress, and Principles of Representation — Look at England — Holland — the Vote of every Province necessary. L<sup>d</sup> Chesterfield —

Impost opposed and defeated not by one of the large States —

The Consent of Rhode-Island will be necessary on the Jersey-Plan —

A single Leg<sup>r</sup>

Despotism presents itself in several various Shapes — military Despot — ex. Despot — Is there no such Thing as a leg. Despot — The Leg. Authority ought to be restrained —

The Restraints upon the Leg<sup>r</sup> must be such as will operate within itself — No Check in a single Branch —



Should have distinct and independant Branches — reciprocal Controul.

A single Executive — Triumvirate of Rome — 2 Triumvirate — Augustus rose superior — Sparta — Rome —

Pinckney —<sup>1</sup>

If Jersey can have an equal Represent<sup>n</sup> she will come into the Plan from Virginia —

Views — to amend the Confed<sup>n</sup> if not amendable, then to propose a new Governm<sup>t</sup> —

*Solely recommendatory* — Powers sufficient. Division of Territory ; not seriously proposed<sup>2</sup> — The due Settlem<sup>t</sup> of the Importance of the States necessary — this done at present with Respect to Contribution.

*England.*

1 Congress unfortunately fixed on equal Represent<sup>n</sup> — they had not the Means of determining the Quota — If each State must have a Vote, each State must contribute equally —

Elsworth.

Randolph<sup>3</sup>

1. Whether the Articles of the Confed<sup>n</sup> can be so reformed as to answer the Purposes of a national Governm<sup>t</sup> —

No Usurpation of Power in this Convention. The Spirit of the People in Favour of the Plan from Virginia —

Powers pursued ; if Powers wanting, we should do what is right.

Our Debts remain unpaid while the federal Gov<sup>t</sup> remains as it is —

*Delaware.*

The 13<sup>th</sup> Article — provides for the alteration of the Articles, then of course for the Alteration of the 5<sup>th</sup> Article.

*Annapolis.*

Powers in a deliberate Assembly — ridiculous — We are only to compare Sentiments — Disdain Danger, and do what is necessary to our political Salvation — We must avail ourselves of the present Moment.

His Constituents will applaud, when he has done every Thing in his Power to relieve America —

No Provision ag<sup>t</sup> foreign Powers or Invasions. no Money nor Men — Militia not sufficient —

No Provision ag<sup>t</sup> internal Insurrections. nor for the Maintenance of Treaties —

Coercion two Ways — 1. as to Trade — 2. as to an Army —

<sup>1</sup> This is considerably longer than the condensation of Pinckney's speech given by Madison. It has here also considerably more force and meaning. Cf. *Doc. Hist.*, III. 136.

<sup>2</sup> Once more a reference to Paterson's and Brearley's plan for consolidation.

<sup>3</sup> An outline of Randolph's able speech of June 16. This throws light on some of Randolph's argument as condensed by Madison.

Legislation affecting Individuals the only Remedy. This Power too great to lodge in one Body —

Congress possess both Legislation and Execution —

The Variety of Interests<sup>1</sup> in the several States require a national Legislation ; or else there may be a Combination of States —

The Mode of electing Congress an Obj<sup>n</sup> — the Delegates will be under the Influence of its particular States.

Cabal and Intrigue of which such a Body as Congress may be capable. They are too numerous for an Executive.

No Provision under the Confed<sup>n</sup> for supporting the Harmony of the States — their commercial Interests different

No provision for Congress to settle Disputes —

No Provision made or Power in Congress for the Suppression of Rebellion — no Troops can be raised — Congress ought not to have the Power of raising Troops.

A Navigation Act may be necessary — Give Power to whom — not to Congress — capable of Intrigue and Cabal ; Inadequacy of Representation ; Want of Confidence in Congress —

Congress fallen considerably in their Reputation.

Doors not open in Congress.

This the last Moment ever will be offered <sup>2</sup> —

Divide leg. and ex.  
Branches and then Doors  
may be open —

*D. Notes on Debates of June 27, 28, and 29.<sup>3</sup>*

June 27. 1787.<sup>4</sup>

Have those who upon the present plan hold  $\frac{1}{13}$  part of the Votes, a  $\frac{1}{13}$  part of the weight, — certainly not — upon this plan they sink to nothing

The Individual right of Citizens is given up in the State Gov<sup>ts</sup> they cannot exercise it again in the Gen<sup>l</sup> Government.<sup>5</sup>

It has never been complained of in Congress — the complaint there is the want of proper powers.<sup>6</sup>

<sup>1</sup> That this argument is important in Paterson's mind is indicated by a hand on the margin of his notes pointing to this.

<sup>2</sup> "A Nat<sup>l</sup> Gov<sup>t</sup> alone, properly constituted, will answer the purpose ; and he begged it to be considered that the present is the last moment for establishing one. After this select experiment, the people will yield to despair." *Doc. Hist.*, III. 138.

<sup>3</sup> In the handwriting of David Brearley.

<sup>4</sup> According to Madison's notes, Martin alone spoke on this day, his speech lasting three hours. *Doc. Hist.*, III. 224.

<sup>5</sup> This is undoubtedly the argument of Martin based on his notion that the state governments rested on compact.

<sup>6</sup> Here Mr. Brearley has indicated by a hand the importance of the argument.

June 28<sup>th</sup>

M<sup>r</sup>. Martin resumed his argument.

The Gen<sup>l</sup> Gov<sup>t</sup> is not to regulate the rights of Individuals, but that of States. The Gen<sup>l</sup> Gov<sup>t</sup> is to Govern Sovereignities. then where the propriety of the several Branches — they cannot exist — there can be no such checks.

Amphictyonick Council of Greece represented by two from each town — who were notwiths<sup>d</sup> the disp<sup>n</sup> of the Towns equal — Rollins Ancient Hist. 4 Vol. pa. 79.

All the *Ancient* and *Modern* Confed<sup>ns</sup> and Leagues were as *equals* notwithstanding the *vast* disproportions in size and wealth.

If the large States, who have got a Majority, will adhere to their plan, we cannot help it, but we will publish to the world our plan and our principles, and leave it to judge.

M<sup>r</sup>. Madison

Have we seen the Great Powers of Europe combining to oppress the small —<sup>1</sup>

Yes — the division of Poland.

They talk in vague Terms of the great States combining etc<sup>2</sup>

M<sup>r</sup>. Williamson<sup>2</sup>

Wants to know how it is possible that the large States can oppress the small<sup>3</sup>

The rule to tax the States according to their numbers would be cruel and unjust — it would Create a war.

M<sup>r</sup>. Madison.

If you form the present Government, the States will be satisfied — and they will divide and sub-divide so as to become nearly equal —

June 29<sup>th</sup>

Doct. Johnson

If the States are represented as States — they must be represented as Individuals.

M<sup>r</sup> Gorham—

New-Jersey ought not to oppose the plan, as she at present pays the Taxes of Penn. and N. York, from which she would be relieved.

M<sup>r</sup>. Madison

Will have the States considered as so many great Corporations, and not otherwise.

Col. Hamilton

That States have equal rights to vote, is not true It is estab<sup>d</sup> by the Law of Nations that they have equal votes — but does it follow that they can not contract upon a different footing —

That the Gen<sup>l</sup> Governm<sup>t</sup> will act, not only, upon the States, but upon Individuals.

As long as the State influence is kept up there will be danger — but the influence will not be as great as is apprehended.

<sup>1</sup> A hand on the margin.

<sup>2</sup> In Madison's notes this speech precedes that of Madison. *Doc. Hist.*, III. 227.

<sup>3</sup> A hand on the margin.

The small States have  
had a lesson of State Hon-  
esty

M<sup>r</sup> Pierce.

M<sup>r</sup> Gerry.

It is a contest for power in the weaker States.<sup>1</sup>

Gentlemen of Congress when they vote always connect  
with them the State views and politicks — and therefore —

That upon Tryal it has been found that the Articles of  
Conf<sup>n</sup> are not adequate —

That the small States have abused their power, and in-  
stanced Rho. Island.

E. *Notes on Debate of June 30.*<sup>2</sup>

Wilson.

Did not expect this Question at this Stage of the Business.

Member of Connecticut said, not more than one State to  
Eastward would accede.

*Sense of Duty.*

This as to Contrib<sup>n</sup>

22 out of 90 — not  $\frac{1}{4}$  —

Artificial Systems of States —

Easy to correct it.

The Voice of the Minority will vote away the Property  
of the Majority —

A Solecism.

7 States can control the 6.

States imaginary Beings abstracted from Men —

No other Foundation will be solid —

The 3 large States combined. W<sup>t</sup> He wants the Prin-  
ciples of the Comb<sup>n</sup> — they will be Rivals.

Their Interests are different.

24 out of 90 carry more of an Aristocracy.

Why wish for an Union  
of the lesser States —

2 Kinds of bad Gov<sup>t</sup> — 1. That Gov<sup>t</sup> which does not do  
enough — and 2. that which does too much — Be as we were  
before we met.

Yes —but then the 2  
Systems oppose each  
other.

The System of Virginia and the System of Jersey agree  
as to the Powers —

Gov<sup>t</sup> by the States necessary. There can be no Difficulty  
as to this Point.

M<sup>r</sup> Elsworth

Obj<sup>n</sup> A Minority will govern a Majority. You put it in  
the Power of a few to prevent the Oppression of the many.

Political Societies are to govern —

In the Br. Const<sup>n</sup> the few has a Check upon the many;  
and one upon both —

The House must be demolished — but it only wants a  
Shingle —<sup>3</sup>

If Congress had voted by a Majority, all Evils would have  
been cured —

Rhode-Island — The Power not in Congress.

Are not the large States safe now —

<sup>1</sup> A hand on the margin.

<sup>2</sup> This document is in the possession of Miss Emily K. Paterson.

<sup>3</sup> "We are razing the foundations of the building. When we need only  
repair the roof." *Doc. Hist.*, III. 252.

Suppose the large States should agree that 4 free Ports should be established.

Suppose lucrative Offices —

*Self-Preservation.*

*No Unity of Interests —*

M<sup>r</sup> Maddison.

The Confed<sup>n</sup> inadequate to its Purposes.

*Lycia.*

Germanick Body.

Resol<sup>n</sup> of Con<sup>t</sup> refusing to comply with a federal Req<sup>n</sup>

Reported Violations in every State.

The Rule of Conf<sup>dn</sup> obtained by the Necessity of the Times —

The large States will not be secure by the lower Branch.

2<sup>d</sup> Branch may possess a Negative over the Laws of the State-Leg<sup>s</sup>

M<sup>r</sup> Elsworth.

Con<sup>t</sup> has furnished more th<sup>n</sup> her Quota as to Men —

M<sup>r</sup> Sherman.

M<sup>r</sup> Wilson asks, why the Interests of the lesser States cannot be as safe in the Hands of the larger States as in their own —

M<sup>r</sup> Davie —

The Resol<sup>n</sup> as reported by the Com<sup>ee</sup> is impracticable — is too large —

M<sup>r</sup> Wilson —

The 2<sup>d</sup> Branch being executive must sit constantly.

Not necessary to sit constantly —

Each State should have one Senator — 1 Member in the second for every 100,000 People ; and 1 for the smallest State.

This a Compromise on the Part of the large States.

He will not insist upon small Matters — if the great Principles can be established —

Gov<sup>t</sup> placed upon a false Basis.

Doct<sup>r</sup> Franklin.

The lesser States afraid of their Liberties ; the larger States afraid of their Money.

Treaty between France and the U. S. the latter had no Disposition over the Treasury of the former.

M<sup>r</sup> King.

Equality is the Vice of the present System.

Capt<sup>n</sup> Dayton.

M<sup>r</sup> Maddison

The Am<sup>t</sup><sup>1</sup> is Congress in a new Form ; servile to the States.

No Dispos<sup>n</sup> in C<sup>t</sup><sup>2</sup> Rep. or Corporations to swallow up the Rest.

M<sup>r</sup> Bedford —

Purity of Principle—

<sup>1</sup> Amendment probably ; if so, it may refer to Wilson's proposition to have one senator in each state "for every 100,000 souls, and let the States not having that n<sup>o</sup> of inhabitants be allowed one." *Doc. Hist.*, III. 256. Such would seem to be the connection judging by Madison's notes ; but on the other hand it is much more reasonable to suppose that Madison in this speech is referring either to Ellsworth's motion "that the rule of suffrage in the 2<sup>d</sup> branch be the same with that established by the articles of confederation" (*Doc. Hist.*, III. 245), or to Franklin's proposals (*Ibid.*, 257).

<sup>2</sup> Or C<sup>y</sup>, meaning county.

M<sup>r</sup>. King.

This a  
Consolid.<sup>n</sup>

The King  
Bribed.

France —  
Ireland.

Magna Charta of England. Certain const<sup>l</sup> Principles to be observed.

Union of England and Scotland.

Power in the Mag<sup>y</sup> to prevent a Violation of fundamental Principles.

Gov<sup>t</sup> a *progressive Force*.

#### F. Notes on Debate of July 5.<sup>1</sup>

Maddison.

The Interest of the smaller States to come into the Measure — Delaware — foreign Power — New-Jersey. Single and unconnected.

Butler.

The People will not agree to it.

G. Morris.

Suppose the larger States agree — the smaller States must come in.

Jersey would follow the Opinions of New York and Pennsylv<sup>a</sup>

The Sword must decide —

The strongest Party will make the weaker Traitors and hang them — foreign Power.

Should be open to Conviction —

— The larger States must prevail — they must decide ; they are most powerful.

Not Members of a Synod, or Conventicle —

#### G. Notes on Debates of July 7 and 9.

Gerry.

About 2,000 Men in the smaller States, who compose the Executives, Legislatives, and Judiciaries ; all interested in opposing the present Plan, because it tends to annihilate the State-Governments.

Sherman —

If a Majority of the lesser states be ag<sup>t</sup> the Laws of the national Governm<sup>t</sup> ; those Laws cannot be executed — There must then be a Branch immediately from the States.

Wilson —

An Agreeem<sup>t</sup> elsewhere cannot be expected unless the Representation be fair —

Madison.

1. The Upper Branch may put a Veto upon the Acts of the lower Branch.

2. May extort a Concurrence. The smaller States near the Centre ; they may compose a Majority of the Quorum.

Gerry —

The larger States will have more Influence ; they have in Congress ; this from the Nature of Things.

G. Morris —

Great Care will be taken to lessen the Powers of the 2<sup>d</sup> Branch —

Corporations to be protected.

<sup>1</sup> The subject under discussion was the report of the Committee providing for equal representation in the second branch and the initiation of revenue and appropriation by the first branch.

Separate colonial Existences —

Corporations — The small States — go on and fight out the Rev<sup>n</sup> or give us an equal Vote.

The small States say, that they will have greater Rights as Citizens —

Must have such a Gov<sup>t</sup> as will give Safety —

State-Policy not a proper Object for a vigorous Governm<sup>t</sup>

In Proportion to the Vigour and Strength of the State Governm<sup>ts</sup> will be the Febleness of the general Governm<sup>t</sup> —

We must have it in View eventually to lessen and destroy the State Limits and Authorities —

The Germanick Const<sup>n</sup> — The Emperor has never been able to collect them — the separate Parts were too independant —

Monday 9<sup>th</sup> July, 87.

Gorham.

Report of Com<sup>ee</sup><sup>1</sup>

Necessary, that the Atlantic States should take Care of themselves; the Western States will soon be very numerous.

#### H. *Notes on Debate of July 23.*<sup>2</sup>

##### 1. The Constitutionality of the Measure.

###### Reasons.

1. The People the Source of Power. Union —
2. The Leg<sup>t</sup> of To-Morrow may repeal the Act of the Leg<sup>t</sup> of To-Day. So as to Convention —
3. Some of the Const<sup>ns</sup> not well or authoritatively founded — Acquiescence.

###### Expediency.

2 Branches in some of the States —

Judges, etc excluded —

The very Men that will oppose — Rh. Island —

<sup>1</sup> This was the report of the committee stating the representation of each state in the first Congress.

<sup>2</sup> The heading on the Lenox Library copy is "Notes of Paterson possibly of Madison's speech of 19 June." The notes seem however to cover the debates of July 23, the day on which Paterson seconded Ellsworth's motion that the Constitution be referred to the legislatures for ratification. Down to the first blank line, *i. e.* through the word "Acquiescence," the notes refer to the speech of Mason. Down to the next blank line, *i. e.* from "Expediency" through "Rh. Island," the notes refer to the speech of Gorham. The next line, beginning with "The Debt" and ending with "Idea," refers to Ellsworth's remarks. From the words "The Leg<sup>t</sup>," through the words "13 States," reference seems to be to the remarks of G. Morris. Possibly "Congress over again" refers to something said by King but perhaps by Morris. The last sentence is doubtless an assertion of Madison's.

The Debt will go with the Gov<sup>t</sup> — this a prevailing Idea —

The Leg<sup>r</sup> has no Right to alter the Const<sup>n</sup> or the Confed<sup>n</sup> —

Not acting under the Confed<sup>n</sup> Nothing but a Compact resting upon the 13 States.

Congress over again.

A Violation of the Compact by one of the Parties, leaves the rest at Large, and exonerated from the Agreem<sup>t</sup>